

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-750
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued May 26, 2004)

APPEARANCES:

MR. ROBERT P. JARED, Attorney at Law, MidAmerican Energy Company, 106 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, appearing on behalf of MidAmerican Energy Company.

MR. CRAIG GRAZIANO, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

MR. KEITH MEYER, 1012 Marquette, Davenport, Iowa, appearing pro se.

STATEMENT OF THE CASE

On October 17, 1978, in Docket No. P-750, the Iowa State Commerce Commission, predecessor agency to the Utilities Board (Board), issued natural gas pipeline permit number 887 to Iowa-Illinois Gas and Electric Company, predecessor company to MidAmerican Energy Company (MidAmerican), for the Blue Grass Lateral #2 in Scott County, Iowa. The original permit was for a 4-inch diameter steel pipeline approximately 2.08 miles long. On March 11, 1981, the Board issued an

amendment to the permit to add approximately 1.68 miles to the line. (petition for permit; testimony of Mr. Grigsby; Bloome report).

On September 11, 2003, MidAmerican filed a petition and exhibits for renewal of natural gas pipeline permit number 887. (petition for permit; testimony of Mr. Grigsby; Bloome report). The renewal petition is for a 4-inch diameter steel pipeline approximately 3.83 miles long in Scott County, Iowa, with a maximum allowable operating pressure (MAOP) of 600 psi. (petition for permit; testimony of Mr. Grigsby; Bloome report). The pipeline supplies natural gas to the city of Blue Grass, Iowa and the surrounding area. (testimony of Mr. Grigsby). MidAmerican amended its petition on February 26, 2004. (petition for permit).

On February 23, 2004, the Board assigned this case to a presiding officer. A procedural schedule was established by an order issued on February 26, 2004. In that order, the undersigned presiding officer set April 13, 2004, as the date for the hearing on the petition, and proposed to take official notice of a February 13, 2004, report concerning the pipeline prepared by Mr. John A. Bloome, a utility regulatory inspector for the Board's Safety and Engineering Section.

MidAmerican filed prepared direct testimony of Mr. David C. Grigsby on March 9, 2004.

MidAmerican caused notice of the hearing to be published in Scott County in The Quad-City Times, morning edition, a newspaper of general circulation in the county, on March 18 and 25, 2004. (proof of publication).

Mr. Keith Meyer filed a request to intervene and a request that Mr. Warren Buffett appear at the hearing on behalf of MidAmerican on March 31, 2004. The undersigned issued an order denying the request to intervene, treating the request as an objection, and ordering MidAmerican to file a response on April 1, 2004. MidAmerican filed a resistance to the request to have Mr. Buffett appear on April 6, 2004. In the resistance, MidAmerican stated Mr. Meyer had not shown any right or interest that may be affected by the granting of the renewal permit.

On April 7, 2004, Mr. Meyer filed a request that the Board subpoena Mr. Buffett, raised safety concerns regarding the pipeline, and asked for a postponement of the hearing. On April 8, 2004, MidAmerican filed a resistance to the request for subpoena. Among other things, MidAmerican asserted Mr. Meyer was not a party to the case and had not shown any interest that would entitle him to be a party. On April 8, 2004, the undersigned issued an order denying Mr. Meyer's request that the Board subpoena Mr. Buffett and denying the request for postponement of the hearing. The undersigned also ruled that Mr. Meyer was not a party, but was an objector, stated his request would be treated as prefiled testimony, and ordered MidAmerican to address certain of Mr. Meyer's allegations regarding safety at the hearing.

The hearing was held on April 13, 2004, by telephone conference call. Mr. Grigsby, engineer for MidAmerican, testified on behalf of MidAmerican. Mr. Bloome testified on behalf of the Board. Mr. Meyer testified on behalf of himself.

The parties did not object to the taking of official notice of Mr. Bloome's report filed on February 13, 2004, and it was officially noticed.

At the hearing, Mr. Meyer expressed concerns regarding the safety of the pipeline at certain locations. (testimony of Mr. Meyer) He requested the opportunity to take and file photographs of the pipeline at or near 140th Street and Coon Hunter's Road showing his safety concerns after the conclusion of the hearing. (testimony of Mr. Meyer). MidAmerican objected, citing concerns regarding accuracy and untimeliness. The undersigned ruled Mr. Meyer would be allowed to take and file four photographs, specified the procedures to be followed to address MidAmerican's concerns regarding accuracy, and provided an opportunity for the other parties to file responses to Mr. Meyer's photographs and explanation. This ruling was affirmed and detailed in an order issued April 14, 2004.

On April 29, 2004, Mr. Meyer filed four photographs and an explanation of each photograph. Mr. Meyer stated photographs A and C show erosion in a drainage culvert from a farm and a concrete-filled water tank on top of the pipeline, and that the pipeline marking was visible in orange. He stated photographs B and D showed a gaping hole in a fence line along the pipeline.

On May 4, 2004, MidAmerican filed a response to the submission of photographs, an affidavit of Mr. Alan L. VerBrugge, senior engineer in the gas engineering department of MidAmerican, Drawings ALV-1 and ALV-2, and photocopies of Mr. Meyer's photographs. MidAmerican stated it appeared Mr. Meyer

assumed the pipeline was located directly beneath the pipeline marker, but this is not the case. MidAmerican stated pipeline markers are located in the general vicinity of the pipeline and are often located along fence lines for the convenience of the county and adjacent farmer. It further stated the purpose of One Call of Iowa is to pinpoint the exact location of a pipeline. MidAmerican stated the pipeline is buried at depths in excess of applicable standards in both locations. MidAmerican further stated the ditch erosions shown in the photographs at both locations do not impact the safe and reliable operation of the pipeline because of the pipeline's distance from the erosion and depth of burial. In his affidavit, Mr. VerBrugge stated he met Mr. Meyer on April 16, 2004, at or near 140th Street and Coon Hunter's Road, and was with him when he took his photographs. Mr. VerBrugge further stated he recognized the sites shown on Mr. Meyer's photographs to be those Mr. Meyer photographed on April 16, 2004. Mr. VerBrugge stated he returned to the sites shown on April 30, 2004, with an electronic pipe locator, which he is qualified to use. He stated he determined the pipeline was 31 feet from the fence line and 8 feet from the ditch shown in photographs A and C, and the pipeline is buried at a depth of 4 feet, 4 inches at this location. He further stated he determined the pipeline was 32 feet from the fence line and 26 feet from the nearest edge of the eroded area shown on photographs B and D, and the pipeline is buried at a depth of 3 feet, 8 inches at this location. Drawings ALV-1 and ALV-2 show details of the two locations as measured by Mr. VerBrugge.

On May 10, 2004, the undersigned issued an order directing Mr. Bloome to examine the photographs and information filed by Mr. Meyer and MidAmerican, and if he deemed it necessary to form an educated opinion regarding the information filed, to re-inspect the pipeline in the area shown in the photographs. Mr. Bloome was also directed to file an additional report.

On May 21, 2004, Mr. Bloome filed his additional report. Mr. Bloome stated he re-inspected the pipeline in the area shown on the photographs for compliance with state and federal pipeline safety standards on May 19, 2004. (Bloome additional report). Mr. Bloome described each location in detail in his report. He stated at the location shown in photographs A and C, the pipeline is 8 feet away from the erosion and it poses no threat to the line. Mr. Bloome stated the federal pipeline safety standards at 49 C.F.R. 192.707(a), adopted by the Board at 199 IAC 10.12(1), state line markers must be placed as close as practical to the pipeline. He further stated at this location, the only suitable area for the marker post is at the fence line, which allows the county to maintain the right-of-way along the road while still providing a warning of a natural gas pipeline as required by the regulations. Mr. Bloome further stated that, according to 49 C.F.R. 192.327, a minimum of 36 inches of cover is required, and Mr. VerBrugge's affidavit stated the pipeline at this location was buried 4 feet, 4 inches deep. Mr. Bloome further stated, at the location shown in photographs B and D, the pipeline is 26 feet west of the erosion taking place and the erosion poses no threat to the line. He further stated Mr. VerBrugge's affidavit stated

the pipeline at this location was buried 3 feet, 8 inches deep, which exceeds the 36 inches of cover depth requirement of 49 C.F.R. 192.327. Mr. Bloome stated the erosion that is occurring poses no threat to the safe operation of the pipeline, and no special conditions or restrictions pertaining to safety or operation of this pipeline are suggested.

FINDINGS OF FACT

1. MidAmerican is a pipeline company within the meaning of Iowa Code § 479.2 (2003). (testimony of Mr. Grigsby).
2. The pipeline at issue in this docket was originally constructed in 1978 and 1981. (Bloome report; testimony of Mr. Grigsby). In 1993, approximately 1,000 feet of the pipeline was replaced and relocated due to the widening and reconstruction of U.S. Highway 61. (testimony of Mr. Grigsby; Bloome report). On September 11, 2003, MidAmerican filed a petition and exhibits for renewal of Gas Pipeline Permit Number 887, issued by the Iowa State Commerce Commission, predecessor agency to the Board, in Docket No. P-750, on October 17, 1978, and amended on March 11, 1981. (petition for permit; testimony of Mr. Grigsby; Bloome report). The renewal petition is for a 4-inch diameter steel pipeline approximately 3.83 miles long in Scott County, Iowa, with a maximum allowable operating pressure of 600 psi. (petition for permit; testimony of Mr. Grigsby; Bloome report). The pipeline supplies natural gas to the city of Blue Grass, Iowa and the surrounding area. (testimony of Mr. Grigsby; petition for permit). The pipeline does not supply

natural gas to the city of Davenport. (testimony of Mr. Grigsby; petition for permit).

MidAmerican amended its petition on February 26, 2004. (petition for permit).

3. MidAmerican caused notice of the hearing to be published in Scott County in The Quad-City Times, morning edition, a newspaper of general circulation in the county, on March 18 and 25, 2004. (affidavit of publication).

4. Continued operation of this pipeline is necessary to provide natural gas service to Blue Grass, Iowa and the surrounding area. (petition for permit; testimony of Mr. Grigsby). Therefore, the service promotes the public convenience and necessity. (petition for permit; testimony of Mr. Grigsby).

5. The pipeline continues to comply with the design, construction, and safety requirements of Iowa Code Chapter 479, 199 IAC § 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. Grigsby, Mr. Meyer, Mr. Bloome; Bloome report; Bloome additional report; photographs and information filed by Mr. Meyer; affidavit of Mr. VerBrugge; drawings ALV-1 and ALV-2) At the two locations of concern to Mr. Meyer, the evidence shows the erosion poses no threat to the safety of the pipeline due to the distances of the pipeline from the erosion and the depth of burial of the pipeline. (photographs and information filed by Mr. Meyer; affidavit of Mr. VerBrugge; Drawings ALV-1 and ALV-2; Bloome additional report; Bloome report; testimony of Mr. Grigsby, Mr. Meyer, Mr. Bloome; petition for permit). The evidence also shows the tank shown in photographs A and C is not on top of the pipeline. (photographs and information filed by Mr. Meyer; affidavit of Mr. VerBrugge; drawings

ALV-1 and ALV-2; Bloome additional report; Bloome report; testimony of Mr. Grigsby, Mr. Meyer, Mr. Bloome; petition for permit). The other safety-related concerns raised by Mr. Meyer are without merit because they are not supported by the evidence, and in some cases, are contradicted by persuasive evidence. (petition for permit; testimony of Mr. Grigsby, Mr. Meyer, Mr. Bloome; Bloome report; Bloome additional report; photographs and information filed by Mr. Meyer; affidavit of Mr. VerBrugge; drawings ALV-1 and ALV-2). There is no reason to impose additional safety-related terms, conditions, or restrictions on the permit. (petition for permit; testimony of Mr. Grigsby, Mr. Meyer, Mr. Bloome; Bloome report; Bloome additional report; photographs and information filed by Mr. Meyer; affidavit of Mr. VerBrugge; Drawings ALV-1 and ALV-2).

6. The location and route of the proposed pipeline are reasonable and there is no reason the location or route of the pipeline should be changed, or that further terms, conditions, or restrictions regarding location and route should be added to the permit. (petition for permit; Bloome report; testimony of Mr. Grigsby).

7. MidAmerican has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 and 199 IAC § 10.2(1)(d). (testimony of Mr. Grigsby; petition Exhibit D).

8. Mr. Keith Meyer filed a request to intervene in this docket, which was treated as a written objection to the petition for permit renewal. (testimony of Mr. Meyer; request to intervene). Although he is a customer of MidAmerican,

Mr. Meyer's home is not served by the pipeline at issue in this case, and if the pipeline at issue in this case failed, it would not impact Mr. Meyer or any other Davenport customer. (testimony of Mr. Grigsby, Mr. Meyer; petition for permit; request to intervene; maps 1, 2, and 3). Mr. Meyer's home is approximately 7.7 miles from the nearest point on the pipeline at issue in this case. (testimony of Mr. Grigsby, Mr. Meyer; maps 1, 2, and 3; petition for permit). The pipeline at issue in this case serves the city of Blue Grass, Iowa and the surrounding area, not the city of Davenport. (testimony of Mr. Grigsby; petition for permit). Mr. Meyer did not present any evidence that showed he had a right or interest that would be affected by the pipeline at issue in this case, nor did he present any evidence that showed he would be adversely impacted by the renewal of the pipeline permit. (request to intervene; testimony of Mr. Meyer; maps 1, 2, and 3; testimony of Mr. Grigsby; petition for permit).

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12, and 479.18; 199 IAC Chapter 10.
2. The Board has jurisdiction over MidAmerican, and over the petition for permit renewal it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, and 479.18.

3. The petition of MidAmerican for renewal of Pipeline Permit No. 887 in Docket No. P-750 should be granted. Iowa Code §§ 479.11, 479.12, and 479.26; 199 IAC Chapter 10.

4. The provisions of Iowa Code § 476.29 do not apply to this permit, because the pipeline was constructed prior to June 1, 1999. Iowa Code § 479.29(12).

5. Any person whose rights or interests may be affected by the pipeline may file a written objection to the proposed pipeline or to the granting of a permit. Iowa Code § 479.9. Although Mr. Meyer's request to intervene was treated as an objection, and he was allowed to participate in the hearing as an objector, after hearing all the evidence presented, Mr. Meyer does not have any rights or interests that may be affected by the pipeline at issue in this case or by the grant of the petition for renewal of pipeline permit number 887.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated February 13, 2004, filed in this docket by Mr. John A. Bloome, utility regulatory inspector for the Board.

2. Pursuant to Iowa Code Chapter 479, the petition for renewal of Pipeline Permit No. 887 filed by MidAmerican in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. The Board retains jurisdiction of the subject matter in this docket.

4. This proposed decision will become the final decision of the Board unless appealed to the Board within 15 days of its issuance. Iowa Code § 17A.15(3); 199 IAC § 7.8(2).

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 26th day of May, 2004.